UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMOTHY ALAN DIETZ

Appeal 2009-003086
Application 10/715,062
Technology Center 3600

Decided: December 16, 2009

Before HUBERT C. LORIN, JOSEPH A. FISCHETTI, and
BIBHU R. MOHANTY, *Administrative Patent Judges.*

LORIN, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Timothy Alan Dietz (Appellant) seeks our review under 35 U.S.C.
§ 134 (2002) of the final rejection of claims 1-21. Claim 22 has been
cancelled. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We AFFIRM.[1]

THE INVENTION

The invention is "a method and computer program product for
dynamically serving a given web-page element (e.g., an advertisement)
based on a location of the requesting client device." Specification 1:8-11.

Claim 1, reproduced below, is illustrative of the subject matter on
appeal.

> 1. A method for generating and serving a web
> page by a server data processing system,
> comprising the steps performed by the server data
> processing system of:
>   storing a set of location-specific page
> elements;
>   receiving a request for the web page from a
> first client browser, the request including a
> geographic location data string identifying a first
> location of the first client browser;
>   responsive to the request being received,
> dynamically building the web page using the
> geographic location data string to select a given

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[1] Our decision will make reference to the Appellant's Appeal Brief ("App.
Br.," filed Dec. 14, 2007) and Reply Brief ("Reply Br.," filed May 6, 2008),
and the Examiner's Answer ("Answer," mailed Mar. 7, 2008).

one of the set of location-specific page elements
having content associated with a physical location
in proximity to the first location of the first client
browser;
serving the web page in response to the
request;
receiving a subsequent request for the web
page from either the first client browser or a
second client browser different from the first client
browser;
determining if the subsequent request
originates from a second location that is proximate
to the first location of the first client browser; and
providing a cached version of the web page
with the selected location-specific page element if
the second location is proximate to the first
location.

THE REJECTIONS

The Examiner relies upon the following as evidence of

unpatentability:

Dowling   US 6,522,875 B1   Feb. 18, 2003

The Examiner took Official Notice that it is old and well known in the

computer art to build web pages using a Java server page mechanism.

[Hereinafter, Official Notice].

The following rejections are before us for review:

1. Claims 1-7, 9-13, 15-19, and 21 are rejected under 35 U.S.C.
   § 102(e) as being anticipated by Dowling.

2. Claims 8, 14, and 20 are rejected under 35 U.S.C. § 103(a) as being
   unpatentable over Dowling and Official Notice.

<div align="center">ARGUMENTS</div>

The rejection of claims 1-7, 9-13, 15-19, and 21 under §102(e) as being anticipated by Dowling.

    Claims 1-4, and 9-13

    The Appellant argues that Dowling does not anticipate claim 1 because Dowling does not describe the claimed steps of 1) dynamically building a web page or 2) receiving a request. App. Br. 13.

    First, the Appellant argues that Dowling does not describe the step of *dynamically building* a web page using a geographic location data string to select a given one of a set of location-specific page elements in response to receiving a request that includes a geographic location data string. App. Br. 13-16. The Appellant asserts that Dowling instead describes screening or filtering pre-existing web-pages based on location. *Id.* The pre-existing web-pages in Dowling are not *dynamically generated* by a server according to the Appellant. App. Br. 14-16.

    The Examiner responds by quoting all of the steps of claim 1 and stating that the steps are "interpreted in light of Appellant's specification as simply targeting advertisements to a client's browser based upon said client's browser geographic location when said client's browser request[s] a web page from a network server." Answer 9. The Examiner then quotes portions of the Appellant's Specification. Answer 9-10. The Examiner quotes various portions of Dowling, cites Figure 1 and asserts that Dowling reads on the claim limitations because Dowling "teaches targeting advertisement's content to mobile users based upon said users' geographic location, where said targeting is based upon said user's browser request of a web page from a network server and where said advertisement's content is

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pull[ed] from said network server based upon said mobile user's geographic location." Answer 11-12.

The Appellant then responds that the Examiner is comparing the Appellant's Specification to Dowling and ignoring the specific language of the claims. Reply Br. 2.

Second, the Appellant argues that Dowling does not describe the step of, receiving a request for the web page from *a first client browser*, where the request *includes a geographic location data string* identifying a first location of the first client browser. App. Br. 16-18. The Appellant asserts that Dowling instead describes two modes: 1) a local broadcast detection mode where there is no request at all (App. Br. 16-17), and 2) a GPS mode, where a periodic transmission of GPS location data is sent to a server, where the transmission is not a request for a web page (App. Br. 17-18). Further, the Appellant argues that in Dowling, the GPS location information is not received from a client browser but rather a GPS device instead. App. Br. 18.

The Examiner responds that Dowling's geographical packet is the geographic location data string that is sent when the mobile user's web browser requests a web page. Answer 12-13.

The Appellant then responds that, Dowling's *client received* packet carries with it the geographically related information, but the *server received* request does not contain a geographic location data string that identifies a location of a client browser. Reply Br. 3.

Claim 5

The Appellant argues that Dowling does not describe the first client browser providing the geographic location data string in a cookie as recited

in claim 5, because the geographical packet does not include a geographic location data string. We note that the Appellant has construed a cookie as a parcel of text. *See* App. Br. 20 n.1.

The Examiner points to Dowling's "geographical packet" as meeting this limitation. Answer 16-17.

Claim 6

The Appellant argues that Dowling does not describe the first client browser providing the geographic location data string in an HTML form as recited in claim 6. App. Br. 20-21. The Appellant argues that, while the cited portion of Dowling, cited by the Examiner, does mention the mobile unit receiving network application data in HTML form, Dowling does not describe the mobile unit providing data in HTML form to the server. App. Br. 20. The direction of the data flow in Dowling is opposite to the claimed direction. *Id.* The Appellant asserts that an HTTP packet is not an equivalent to an HTML form as those terms are known to those of ordinary skill in the art. Reply Br. 5.

The Examiner points to Dowling's HTTP request geographical packet as meeting this limitation. Answer 17.

Claim 7

The Appellant argues that Dowling does not describe that a set of location-specific page elements stored at a third party server as recited in claim 7. App. Br. 21. The Appellant argues that the virtual session server 120 of Dowling, pointed to by the Examiner, is not used to store any type of information used to dynamically generate a web-page but is instead used to

maintain a network connection between a mobile unit and an air interface.
Id.

The Examiner points to Dowling's network server 125 as meeting this
limitation. App. Br. 17-18.

Claims 15-19

The Appellant argues that Dowling does not describe that the i) means
for receiving a request, ii) means for dynamically building, iii) means for
receiving a subsequent request, iv) means for determining and v) means for
providing are all part of a single unitary web server as recited in claim 15,
but instead part of a the mobile unit 105 or elements 120, 125, and 135.
App. Br. 22.

The Examiner points to Dowling's network server 125 as meeting
this limitation. App. Br. 18.

We note that in the Appeal Brief, the Appellant grouped claims 16-19
with independent claim 1. *See* App. Br. 13. However, these claims depend
from claim 15 which differs in scope from claim 1 and recites an apparatus
instead of a method. We note that the Appellant does not provide separate
arguments for these claims. Therefore, we group these claims with claim 15
instead of claim 1.

Claim 21

The Appellant states that claim 21 includes substantially the same
features as claim 1 and therefore, the Examiner erred in rejecting claim 21
for the same reasons as assert with regards to claim 21 above. App. Br. 22.
In addition, the Appellant argues that claim 21 is not anticipated because it

requires that all of the recited steps are performed by a server data processing system and Dowling does not describe this. *Id.* Specifically, the Appellant again argues that Dowling does not describe the network server performing the claimed step of dynamically building the web pages. Reply Br. 5.

The Examiner again points to Dowling's network server 125 as meeting this limitation. App. Br. 18.

The rejection of claims 8, 14, and 20 under §103(a) as being unpatentable over Dowling.

The Appellant relies upon their arguments traversing the rejection of claim 1 to traverse the rejection of dependent claims 8, 14, and 20. App. Br. 23. Additionally, the Appellant argues that the Examiner has not properly taken Official Notice that the missing features of claim 8 are "old and well known" because the Examiner has not shown that the features were "old and well known" at the time of filing the instant application on September 30, 1999. App. Br. 23-24.

The Examiner responds that the Appellant has not adequately traversed the Official Notice because the Appellant includes a statement as to why the notice fact is not considered to be common knowledge or well known in the art and that the Appellant's traversal of the Official Notice is not timely. Answer 19. The Examiner stated that Official Notice was first taken in the Non-Final Rejection of March, 12, 2007 and that the Appellant first traversed the Official Notice in the Appeal Brief. *Id.*

ISSUES

The first issue is whether the Appellant has shown that the Examiner erred in rejecting claims 1-7, 9-13, 15-19 and 21 as being anticipated by Dowling. Specifically:

1) whether Dowling describes a method wherein a server data processing system 1) receives a request from a client browser, which includes a geographic location data string, for a web page, and 2) in response to receiving the request, dynamically builds a web page using the geographic location data string to select a given one of a set of location-specific page elements as recited in claim 1;

2) whether Dowling describes a method where the first client browser provides the geographic location data string in a cookie as recited in claim 5;

3), whether Dowling describes a method where the first client browser provides the geographic location data string in an HTML form as recited in claim 6;

4) whether Dowling describes a method where the set of location specific page elements are stored at a third party server as recited in claim 7;

5) whether Dowling describes a single unitary server having all of the means recited in claim 15; and

6) whether Dowling describes that, the step of dynamically building a web page as recited in claim 21, is performed by a server data processing system?

The second issue is whether the Appellant has shown that the Examiner improperly took Official Notice that it is old and well known in the computer art to build web pages using a Java server page mechanism

and, therefore, did not establish a prima facie showing of obviousness in rejecting claims 8, 14, and 20.

<div align="center">FINDINGS OF FACT</div>

We find that the following enumerated findings of fact (FF) are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

1. Dowling describes an embodiment of the mobile control unit 105 where the second controller link 215 and the broadcast reception device 220 in Fig. 2 are part of a GPS receiver and the packet filter 225 in Fig. 2 now operates as a control module 225. Col. 11, lines 26-38.

2. Dowling's method 300, depicted in Fig. 3, is carried out by a geographical web browser running on mobile unit 105. Col. 13, ll. 12-14.

3. Dowling's step 305 of method 300 includes sending a request packet. Col. 14, ll. 23-48.

4. Dowling states, "when the user enters a new locality as defined by a grid granularity, information related to the mobile units 105's location is uploaded via the network connection 112 and the network server 125 downloads the set of restaurant web pages registered for the current locality." Col. 11, ll. 42-47.

5. Dowling also states, '[a]nother type of "geographical packet" is a request packet generated when a GPS receiver identifies the mobile unit 105 has passe[d] into a locality and a request needs to

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be sent to the network server 125 as previously discussed.' Col. 16, ll. 21-25. *See also* col. 15, ll. 29-37.

6. Dowling describes that from the downloaded set of web pages the control module/packet filter 225 will display web sites that are within rang of the mobile unit or activate a virtual session to retrieve associated web pages. *See* col. 11, ll. 28-41 and 50-54 and col. 15, ll. 15-31.

7. Dowling's method 400, depicted in Fig. 4, is carried out by the network server 125. Col. 15, ll. 50-51.

8. Dowling describes step 405 of method 400 as "involving receiving one or more HTTP request-packets and responding with packets comprising web-page data." Col. 15, ll. 64-67.

9. Dowling describes that the network server 125 server can be optionally directly coupled to the virtual session server 120 as an application program 130 or can be connected to the virtual session server 120 through the Internet. Col. 6, ll. 15-24.

10. Dowling in column 13, lines 25-40 describes that the application data (i.e. the web pages) are provided to the mobile unit in HTML form.

11. Dowling inherently describes that the geographical packets sent by the mobile unit to the network server are in HTML form.

PRINCIPLES OF LAW

Claim Construction

During examination of a patent application, a pending claim "[is] to be given [its] broadest reasonable interpretation consistent with the

specification, and ... claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art."
In re Am. Acad. of Sci. Tech Ctr., 367 F.3d 1359, 1364 (Fed. Cir. 2004).

> [W]e look to the specification to see if it provides a definition for claim terms, but otherwise apply a broad interpretation. As this court has discussed, this methodology produces claims with only justifiable breadth. *In re Yamamoto*, 740 F.2d 1569, 1571 (Fed. Cir. 1984). Further, as applicants may amend claims to narrow their scope, a broad construction during prosecution creates no unfairness to the applicant or patentee. *Am. Acad.*, 367 F.3d at 1364.

In re ICON Health and Fitness, Inc., 496 F.3d 1374, 1379 (Fed. Cir. 2007).

Limitations appearing in the specification but not recited in the claim are not read into the claim. *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369 (Fed. Cir. 2003).

Anticipation

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

Obviousness

> Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 550 U.S. at 407 ("While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.") The Court in *Graham* further noted that evidence of secondary considerations "might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented." *Graham*, 383 U.S. at 17-18.

ANALYSIS

The rejection of claims 1-7, 9-13, 15-19, and 21 under §102(e) as being anticipated by Dowling.

    Claims 1-4, and 9-13

      The Appellant argued claims 1-4 and 9-13 as a group (App. Br. 13-18). We select claim 1 as the representative claim for this group, and the remaining claims 2-4, and 9-13 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

      We find that claim 1 is anticipated by Dowling's GPS mode embodiment.

> A determination that a claim is anticipated under 35 U.S.C. § 102(b) involves two analytical steps. FN6 First, the Board must interpret the claim language, where necessary. Because the PTO is entitled to give claims their broadest reasonable interpretation, our review of the Board's claim construction is limited to determining

> whether it was reasonable. In re Morris, 127 F.3d 1048,
> 1055 (Fed.Cir.1997). Secondly, the Board must compare
> the construed claim to a prior art reference and make
> factual findings that "each and every limitation is found
> either expressly or inherently in [that] single prior art
> reference." Celeritas Techs. Ltd. v. Rockwell Int'l Corp.,
> 150 F.3d 1354, 1360 (Fed.Cir.1998).

In re Crish, 393 F.3d 1253, 1256 (Fed. Cir. 2004).

First, we turn to the step of a server data processing system "receiving a request for the web page from a first client browser, the request including a geographic location data string identifying a first location of the first client browser" as recited in claim 1 and at issue.

The Appellant argues that receiving GPS information from the mobile unit in Dowling does not read on the step of receiving a request. App. Br. 17. The Appellant seems to be arguing that a request must be made by the user of the system and must contain information, such as a URL for the web page. *See* App. Br. 17-18. However, we find that this is not required by claim 1.

Claim 1 does not restrict the structure or form of the request, except to recite that it includes "a geographical location data string." Claim 1 also does not recite that the request is for a specific web page. Further, claim 1 does not recite a send of a user sending the request. . "Many of appellant's arguments fail from the outset because, . . . they are not based on limitations appearing in the claims. " *In re Self*, 671 F.2d 1344, 1348 (CCPA 1982).

We give claim 1 the broadest reasonable construction in light of the Specification as they would be interpreted by one of ordinary skill in the art and construe claim 1 to require the server data processing system to perform

the action of receiving a request in some form that includes a geographic location data string.

We find that Dowling's description of step 405 in the embodiment where the mobile unit 105 includes a GPS receiver (FF 1) reads on this limitation as recited above. Dowling describes the network server 125 receiving a geographical packet when the mobile unit enters a new locality. *See* FF 4-5 and 7-8. Dowling describes this geographical packet as a "request." FF 8. Further, we find that this geographical packet would include the mobile unit's location information that is uploaded to the network server (FF 4), and since, the information is sent in a data packet this reads on a data string.

Further, in regards to the Appellant's argument that the request is not received from the browser as claimed but instead from the GPS receiver in Dowling, we note that the claims do not recite a step of transmitting the request but merely a step of receiving the request. The action recited by the claim as being performed by server data processing system does not change because the request is "from the browser" nor does the structure of the request change. Further, we note that Dowling states "[t]he method 300 is carried out by an application program, such as a geographical browser running on the mobile unit 105." FF 2. Method 300 includes step 305, which includes sending the geographical packet, (FF 3) as discussed above.

Next, we turn to the step of a server data processing system, "responsive to the request being received, dynamically building the web page using the geographic location data string to select a given one of the set of location-specific page elements having content associated with a physical location in proximity to the first location of the first client browser" as

recited in claim 1 and at issue. The Appellant seems to argue that claim 1 requires that unique web pages are *generated* for the first time and that the web pages were not previously pre-existing. App. Br. 14-16. However, we find that the claim requires "dynamically building a web page" and not "generating" a web page. Further, claim 1 does not require that a unique web page be built, but also encompasses copying a pre-existing web page. Further, we find that the claim only requires one location-specific page element and does not require the web page to have other elements. Therefore, we construe claim 1 to encompass copying a web-page that has at least one element.

We find that Dowling's description of the network server responding to the request from the mobile unit reads on this limitation. Dowling describes the network server, in step 405, responding to the geographical packet with "packets comprising web-page data." FF 8. These packets are created in response to the request and the network server would inherently have to create a copy of the web page data for the packet. FF 8. We find that this reads on dynamically building a web page as recited in claim 1.

Accordingly, we find that the Appellant has not shown that the Examiner erred in rejecting claims 1, 9, 21, and claims 2-4 and 10-13, dependent thereon, under §102(e) as anticipated by Dowling.

Claim 5

We find that Dowling describes the first client browser providing the geographic location data string in a cookie as recited in claim 5. We note that the Appellant has construed "cookie" as "a parcel of text." *See* App. Br. 20 n.1. As discussed above, we find that the geographic packet of Dowling

reads on the claimed request that includes a geographic location data string. A packet is a parcel of text. Accordingly, we find that the Appellant has not shown that the Examiner erred in rejecting claim 5 under 35 U.S.C. § 102(e).

Claim 6

We find that the Appellant has not shown that the Examiner erred in rejecting claim 6. Claim 6 requires that the geographic location data string is in HTML form. We find that the geographical packets of Dowling are inherently in HTML form. FF 11. Dowling describes a client running a geographical web browser (FF 2) and sending geographical packets, which are describes as HTTP packets, to a server (FF 8). In response to the HTTP packets, the server downloads a set of web pages in HTML. FF 8 and 10. Given these facts, we find that Dowling inherently describes that the geographical packets are in HTML form. FF 11. Accordingly, we find that the Appellant has not shown that the Examiner erred in rejecting claim 6 under 35 U.S.C § 102(e) as anticipated by Dowling.

Claim 7

We find that Dowling describes that the set of location specific page elements are stored at a third party server as recited in claim 7. Dowling states that the network server 125 can optionally be directly part of the virtual session server 120 or connected to the virtual session server 120 through the Internet. FF 9. When connected through the internet, the network server 125 reads on the claimed third party server. Accordingly, we find that the Appellant has not shown that the Examiner erred in rejecting claim 7 under 35 U.S.C. § 102(e) as anticipated by Dowling.

Claims 15-19

Claim 15, unlike claim 1, recites an apparatus - "[a] web server." Claim 1 recites a method performed by a "server data processing system." The Appellant argues that Dowling does not teach a "single unitary web server." The Appellant further argues that Dowling does not teach that all of the means recited in claim 15 are part of the web server, since packet filter is part of the control module 225 of the mobile unit (App. Br. 22) and the geographic packet of Dowling does not include a location data string (Reply Br. 5).

First, we find that the claim 15 does not require that the web server be *unitary*. "Many of appellant's arguments fail from the outset because, . . . they are not based on limitations appearing in the claims . . . ." *In re Self*, 671 F.2d 1344, 1348 (CCPA 1982). Claim 15 is silent as to whether the web server is unitary or non-unitary and, therefore, encompasses both.

Next, though it is not entirely clear which specific means recited in claim 15 the Appellant's arguments are drawn to, we will assume that the Appellant is arguing that the Dowling does not describe the means for dynamically building, since the Appellant has previously mentioned the packet filter in arguments traversing other limitations similar to this means (*See* App. Br. 14-16) , and that Dowling does not describe the means for receiving a request, since the Appellant has previously mentioned the geographic packet in arguments traversing other limitations similar to this means (*See* App. Br. 17-18).

The limitations at issue are in "means-plus-function" format.

> An element in a claim for a combination may be
> expressed as a means or step for performing a specified
> function without the recital of structure … in support
> thereof, and such claim shall be construed to cover the
> corresponding structure … described in the specification
> and equivalents thereof.

35 U.S.C. §112, ¶ 6 (2000). The Appellant has set forth in the Appeal Brief

that a server running a control program 30 is the structure in the

Specification that corresponds to these limitations. App. Br. 10. Figure 3 of

the Specification is a flow chart that illustrates operation of the dynamic

page generator. Specification 7:9-10. The Appellant equates block 48 of

Figure 3 to the means for receiving a request and blocks 54-64 of Figure 3 to

the means for dynamically building a web page. *Id.*

　　As discusses above, we find that Dowling describes a server which is

programmed to perform the claimed functions. The Appellant does not

argue that the programmed server in Dowling is not an equivalent of the

claimed server. Accordingly, we find that the Appellant has not shown that

the Examiner erred in rejecting claim 15, and claims 16-19, dependent

thereon, under 35 U.S.C. § 102(e) as anticipated by Dowling.

Claim 21

　　We find that the Appellant has not shown that the Examiner erred in

rejecting claim 21 as being anticipated by Dowling. The Appellant argues

that Dowling does not describe that all of the steps of claim 21 are

performed by a server data processing system (App. Br. 22), specifically the

step of dynamically building a web page (Reply Br. 5). However, as

discussed above with regard to claim 1, we find that Dowling does describe

this step being performed by the network server 125, which is part of a

system that processes server data as depicted in Fig. 1. Accordingly, we find that the Appellant has not shown that the Examiner erred in rejecting claim 21 under 35 U.S.C. § 102(e) as anticipated by Dowling.

The rejection of claims 8, 14, and 20 under §103(a) as being unpatentable over Dowling.

First, the Appellant argued against the rejection of claims 8, 14, and 20 for the same reasons used to argue against the rejection of claim 1. App. Br. 23. Accordingly, we found them unpersuasive regarding claim 1 as to that rejection, and we find them equally unpersuasive as to error in the rejection of claims 8, 14, and 20.

Next, we find that the Appellant has not seasonably traversed the Examiner's taking of Official Notice. If applicant does not seasonably traverse the well-known statement during examination, then the object of the well-known statement is taken to be admitted prior art. *In re Chevenard*, 139 F.2d 711, 713 (CCPA 1943). The Examiner first took Official Notice that "it is old and well known in the computer art to build web pages using a Java server page mechanism" on page 4 of the Non-Final Rejection of March 12, 2007. The Appellant filed a Response to the Office Action on June 7, 2007, which did not include a traverse of the Examiner's Official Notice. *See* Response to the Office Action 14. The Examiner's Official Notice is taken to be admitted prior art.

Accordingly, we find that the Appellant has not shown that the Examiner erred in rejecting claims 8, 14, and 20 under §103(a) over Dowling.

CONCLUSIONS OF LAW

We conclude that the Appellant has not shown that the Examiner erred in rejecting claims 1-7, 9-13, 15-19, and 21 under 35 U.S.C. §102(e) as anticipated by Dowling and claims 8, 14, and 20 under 35 U.S.C. §103(a) as unpatentable over Dowling.

DECISION

The decision of the Examiner to reject claims 1-21 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2007).

<u>AFFIRMED</u>

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